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ADVISORY SERVICES AND TECHNICAL COOPERATION IN THE FIELD OF HUMAN RIGHTS

The situation of human rights in Somalia

Note by the secretariat

1. On 26 January 2000, the independent expert on the situation of human rights in Somalia, Ms. Mona Rishmawi, submitted a report (E/CN.4/2000/110 and Corr.1) in accordance with Commission on Human Rights resolution 1999/75. The report was based on a visit to the region from 14 to 24 November 1999 and described the prevailing conditions regarding respect for human rights and humanitarian law. These were examined within the framework of international humanitarian law relating to non-international armed conflict, employing in particular the principles identifying war crimes and crimes against humanity.

2. The Independent Expert resigned on 10 September 2000, and a replacement is being considered. The Secretariat submits this Note to the Commission on Human Rights at its fifty-seventh session, with a view to informing the Commission of the current situation in Somalia.*

* The annex is reproduced in English and French only.

Annex

SITUATION OF HUMAN RIGHTS IN SOMALIA

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I. THE POLITICAL SITUATION

1. In her last report to the Commission (E/CN.4/2000/100 and Corr.1) the independent expert on the situation of human rights in Somalia welcomed the peace initiative spearheaded by President Ismail Omer Guelleh of Djibouti aimed at ending the conflict in Somalia. Since then, President Guelleh's initiative has led to the convening of a peace conference in Djibouti and agreement on an interim government. The peace process went through different phases in which Mr. Guelleh sought to engage the various Somali factions and authorities in the dialogue and enlisted the support of the international and regional communities.

2. To solicit the advice of the Somalis on how best to convene a peace conference, President Guelleh convened a Technical Consultative Symposium in March 2000. About 60 prominent Somalis from inside and outside the country attended the symposium in their individual capacities. The Secretary-General's Special Adviser on Africa, Mohamed Sahnoun, also attended.

3. In his report of 19 December 2000 to the Security Council on the situation in Somalia (S/2000/1211), the Secretary-General noted that the symposium had recommended that President Guelleh's peace initiative be made as inclusive as possible by allowing the participation of faction leaders who desired peace and by enhancing the role of civil society within Somalia and in the diaspora. On the future structure of government, the symposium recommended a decentralized arrangement, as well as: consolidation of peace in areas where peace had been restored; the establishment of a human rights commission to monitor violations of the peace process; the departure of Somalis occupying the lands and properties of others; the reaffirmation of Mogadishu as the capital of Somalia; and the rehabilitation of militia members, with the conversion of some of them into a national army. The delegates also recommended stricter enforcement of the Security Council arms embargo on Somalia, stressed the need for international support for a future agreement by Somalis and called upon Djibouti to send delegations to Somalia to prepare for the Somali National Peace Conference.

4. As a follow-up to the recommendations of the symposium, the Government of Djibouti held further consultations with Somali clan leaders, civil society groups, business persons, religious leaders and local administrations. A delegation of business persons visited Djibouti in March and expressed its support for President Guelleh's initiative.

5. The Somali National Peace Conference (SNPC) was officially inaugurated on 2 May 2000 in the town of Arta and has since come to be known as the Arta Conference. During its first phase, the Conference was attended by traditional and clan leaders from all over the country. In addition, representatives of business interests, political factions and civil society took part in the deliberations leading to the adoption of an agenda for the second phase and a system of representation of Somalia's various clans. The four major clans (Hawiye, Dir, Darod and Digil/Mirifle) were accorded 180 delegates each. Each clan allotted 20 seats for women. The alliance of minorities was accorded 90 seats (including 10 for women). Clan elders who participated in the first phase were allowed to participate as members of their clan delegations without voting rights. The total number of those who participated in the subsequent phases of the Conference was more than 1,000 persons. The delegates agreed to make clan affiliation the sole basis for participation in the conference.

6. The second phase of the SNPC started on 17 June 2000. The conference created six thematic committees: the Charter Committee, the Economic and Social Affairs Committee, the Education Committee, the Security Committee, the Special Status of Mogadishu Committee and the Agriculture and Fisheries Committee. After a month of deliberations in the committees and in plenary sessions, the conference adopted the Transitional National Charter, a form of constitution, for a three-year transitional period to be followed by general elections.

7. The Charter recognizes regional autonomy based on the 18 pre-existing regions of Somalia. It outlines the various governmental structures, such as the legislative, the executive and the judiciary and allocates 25 parliamentary seats for women and 24 for minorities out of a total of 245. In article 3, the Charter reiterates the adherence of Somalia to international treaties to which it is a party and stipulates the supremacy of law. In article 4, it "acknowledges" the Universal Declaration of Human Rights and affirms Somalia's intention to be bound by the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, to both of which Somalia is a party. In articles 5 to 10, it enumerates the citizen's various rights and freedoms including the right to life, freedom of movement, freedom of association, the right of political participation, freedom of the press, the right not to be arrested or searched except in accordance with the law, the rights to legal representation (including the choice of one's attorney) and the right to and sanctity of private property. It also contains non-discrimination and equality before the law clauses. These same rights are accorded to aliens resident in Somalia. Other fundamental principles such as the separation of powers, the independence and autonomy of the judiciary and the right to basic education figure prominently in the Charter. However, the Charter does not prohibit the infliction of the death penalty and makes the non-discrimination clause conditional on compatibility with Islamic law and "acceptable moral values" (art. 6). Finally, the Charter calls for the creation of an autonomous human rights commission.

8. In August 2000, the 245 members of the Transitional National Assembly (TNA) were elected on the basis of clan nominations and quotas. The TNA met for the first time on 13 August 2000 and subsequently elected its Speaker, Mr. Abdalla Deerow Issaq. On 26 August, the TNA elected Mr. Abdikassim Salad Hassan President, from a shortlist of 16 candidates. Mr. Hassan was inaugurated on 27 August in a ceremony attended by the Presidents of Djibouti, Eritrea, the Sudan and Yemen and the Prime Minister of Ethiopia. The ceremony was also attended by diplomats accredited in Djibouti, senior representatives of the Governments of France, Italy, Kenya, the Libyan Arab Jamahiriya and Saudi Arabia, as well as senior representatives of the Organization of African Unity, the League of Arab States, Intergovernmental Authority on Development (IGAD) and the United Nations office in Somalia. The Representative of the Secretary-General to Somalia, Mr. David Stephen, made an address at the inauguration ceremony on behalf of the Secretary-General.

9. Between September and November 2000, the newly elected President visited several countries and participated in various regional and international events, including a ministerial meeting of the League of Arab States, the United Nations Millennium Summit and the United Nations General Assembly, the Summit of the League of Arab States, the Summit Conference of the Organization of Islamic Conference and the IGAD Summit. In October, he appointed Mr. Ali Khali Galaydh Prime Minister. The new Prime Minister

appointed an all-male cabinet of 22 ministers from all the major clans. Subsequently, he appointed 45 assistant ministers, five ministers of State and a governor for the Banadir region. Of these, four were women. The Transitional National Government (TNG) and the TNA moved to Mogadishu in October.

10. Despite the apparent success of the SNPC, it remains incomplete as important political forces inside Somalia do not recognize the TNG and remain opposed to it. These forces are the government of "Somaliland," the administration of "Puntland", the leader of the "Rahanweyne" Resistance Army (RRA) Shatigudud, (with strong support from some segments of the RRA power-base, the Digil/Mirifle) and the various Mogadishu-based faction leaders (including Hussein Aideed, Musa Sudi Yalahow, and Osman Ali Atto).

II. HUMAN RIGHTS DEVELOPMENTS

11. The Djibouti peace initiative sparked vigorous political activism inside Somalia leading to a sharp polarization of those for it and those against it, including the de facto authorities of "Somaliland" and "Puntland". Most of the human rights violations that have occurred over the past year stem either directly or indirectly from this polarization. The next section of this report will highlight the most significant human rights developments in the various Somali regions during the past year.

A. North-west Somalia

12. Some human rights violations were committed against participants in the Arta Conference, for example the arrest and forcible attempt at deportation of 25 persons who were on their way to Djibouti for the peace process, which was sharply criticized by the former Independent Expert on the situation of human rights in Somalia, Ms. Mona Rishmawi. She issued a press statement on 10 July 2000 in which she called attention to the threats of punishment made against people who wished to attend the peace meeting by the administrations in "Somaliland" and "Puntland." She also raised the issue of the shooting of a "Somaliland Colonel" who was allegedly assassinated for daring to oppose the forcible deportation of Majerten leaders. This received wide publicity.

13. On 11 September 2000, the "Somaliland" administration arrested, in Berbera, *garad* Abshir Salih, a Dulbahante clan chief from Sool region, following his return to "Somaliland" after participating in the Arta Conference. Although the parliamentary legislation that made participation in the Arta Conference a crime of high treason and the subsequent security decree creating the "national security committee" were both in effect, the "Somaliland" authorities decided to charge the *garad* under provisions of the Somaliland Penal Code and brought him to trial before the regular regional court of Berbera. Also, the administration appointed a defence attorney for the accused and allowed him to choose a second one. Both defence counsels were paid by the "Somaliland" authorities. Furthermore, Mr. Egal, President of "Somaliland", instructed his "minister of justice" to invite the OHCHR human rights officer based in Somalia and the international media to attend the trial, which lasted for three days. The OHCHR human rights officer accepted the invitation and observed the trial proceedings. After a hearing that

lasted for three hours only, the accused was found guilty of high treason and sentenced to seven years' imprisonment. On 3 October, a delegation of "Somaliland" officials visiting Boohodle faced demonstrations protesting the arrest and conviction of *garad* Abshir Salih. Mr. Egal pardoned the *garad* after he had spent 35 days in prison.

14. Similarly, on 11 November, the Edigale blocked roads to the Hargeisa Airport and staged demonstrations in protest at the arrest of their Sultan, Mohamed Abdul Khadar, and four companions at Hargeisa Airport on 10 November. The group was arrested upon return from Dubai after having attended the Arta Conference. The demonstrations were reportedly timed to coincide with the arrival of Mr. Egal from Ethiopia. The police reacted against the demonstrators and three persons were killed in the melée - one policeman and two civilians. Reports indicate that between 40 and 70 demonstrators were arrested. It should be noted that the "Somaliland" authorities fought a civil war with the Edigale from 1994 to 1996. Earlier on, Mr. Adan Dahir Obsiye, a civil society activist from Borama, was detained for allegedly participating in the Arta Conference. He was never charged or brought before a court of law and was subsequently released.

15. Attacks against humanitarian aid workers and United Nations staff continue to be a source of concern. GTZ staff member Dieter Krasemann was killed in Burao on 6 June 2000. An assailant stabbed him in the throat while he was sitting in a rented car outside a hotel. It appears that the perpetrator was not of sound mind and that neither GTZ nor Mr. Krasemann were specifically targeted. The "Somaliland" authorities arrested the suspect and requested an external psychiatric evaluation. The case is still pending before the "Somaliland" courts. In Hargeisa, a death threat letter was delivered to the chief of the UNHCR office on 10 July. The "Somaliland" authorities requested that the United Nations withdraw the staff member for some time. On 13 November, in Boroma, an assailant fired on the chief of the international NGO, COOPI, and a visiting group. No one was hit and the shooter was arrested. A female Somali threatened an international female staff member of COOPI with a knife while visiting a water project in Dolow. Residents later attacked her throwing stones. Fortunately, she escaped unharmed.

B. North-east Somalia

16. On 23 March 2000, about 2,000 people demonstrated in the seaport city of Bossasso in support of the Djibouti peace initiative. Police fired live bullets at the demonstrators, wounding nine people and killing one person. The "Puntland" authorities claimed that those shot were trying to vandalize private property. However, eyewitness reports indicated that the demonstration was peaceful and there was no attempt to destroy or loot private property. The demonstration took place at a time when the Government was starting to voice its opposition to the peace initiative.

17. On 13 July 2000, fighting erupted between the Habr Gedir and the Majerten sub-clans at the livestock exchange market in the city of Galcaiyo. The fighting spread and at one point the mayor of the city attempted to intervene. However, he and his entourage were fired upon and the intervention failed. Between three and six persons were reported killed and an unknown number wounded on the Mijertain side and eight or nine killed and an unknown number wounded on the

Habr Gedir side. Fighting also broke out between the Dulbahante and the Majerten Omar Mahamud some 40 kilometres north of Galcaiyo in the town of Baccad Weyne. Political differences were alleged to be the reason for this outbreak, which caused an undisclosed number of casualties.

18. On 2 February 2001, the Puntland police opened fire on a demonstration in the city of Bossasso, killing a woman and injuring an unidentified number of people. The demonstrators, who were waiving the Somali national flag, were reportedly protesting against inflation. Subsequently, the "Puntland" authorities arrested 15 persons. Local human rights organizations claimed that these persons were subjected to severe torture. They were released on 17 February without charge or trial.

19. On 10 February 2001, a boat reportedly smuggling 131 Somalis to Yemen capsized off the coast of Yemen. Fourteen persons drowned and 33 were missing. Similar incidents have occurred in the past and have not been addressed by the local authorities.

20. United Nations security reports indicate that attacks against aid workers and agencies are on the rise. For example, on the night of 15 July 2000, the Africa70 Education Office in Bossasso was looted. Unconfirmed reports also indicate that the UNDP Somalia Rehabilitation Programme office in Iskushuban was looted at some point during that same week. In December 2000, a vehicle belonging to the international NGO, CARE, carrying an international female consultant was stopped at a road-block in Galgalla, near Gardoe. Shots were fired and an abduction was attempted, but failed. The vehicle was finally able to safely evade the ambush, but an unidentified number of Somalis were killed.

C. Southern Somalia

21. On 17 October 2000, RRA militia in Baidoa broke up pro-TNG demonstrations initiated by the traditional Rahanweyne leadership. There was some firing into the air, but no casualties were reported. However, on 4 November, the RRA arrested 17 traditional Rahanweyne leaders who supported the TNG. This led to two shooting confrontations between RRA militia on the one side and Rahanweyne elder-controlled militia on the other. Two deaths were reported. Several other Rahanweyne elders reportedly ran into the bush. Those arrested were released one week later.

22. On 6 January 2001, the TNA Speaker, Abdalla Derow and the TNG Minister of Education visited the Speaker's home district of Tieglow in the Bakool region. RRA militia attacked them and their escort. This attack resulted in nine persons being killed, and the Speaker and the Minister of Education being forced to flee for their lives on foot. Both later safely returned to Mogadishu. Also at the beginning of January, a firefight erupted outside Baidoa between RRA militiamen supporting the TNG and those opposed to it. Six persons were reported to have been killed and an unidentified number wounded. The RRA authorities disconnected telephone services in Baidoa (including those of the United Nations and NGOs) for two days. It was believed that the RRA authority was worried about information leakage.

23. Attacks against aid workers and agencies are exceptionally numerous in this region. On 6 May 2000 a United Nations Common Air Service (UNCAS) aircraft and its crew were threatened by militia demanding landing fees. After discussion between both parties, the aircraft left the airport without paying the landing fees. On 7 May the World Food Programme (WFP) office compound in Baidoa was forcibly entered by a group of 12 Somalis. RRA militia intervened and, together with the WFP guard, ejected the group. There were no casualties or looting during the incident. On 23 August 2000, firing around an UNCAS plane taxiing on the ground after landing at Gabahare forced the aircraft to abort its mission and take off immediately. As a result, Gabahare was placed off limits to UNCAS flights and United Nations ground travel. On 7 September 2000, a group of armed militia forcefully entered the WFP compound in Baidoa seeking employment. At the request of United Nations security officials, the RRA and their militia ejected the group without fighting. The members of the group were reportedly arrested. Finally, on 13 December 2000, an armed group of RRA militia, allegedly dispatched by RRA Chairman Shatigudud, held up the UNCAS aircraft at Baidoa and extorted $300 as landing fees for three flights.

D. Central Somalia

24. Central Somalia, especially the town of Merka, remained off limits to the United Nations community for most of 2000. It was therefore not possible to monitor human rights developments at all times. The general human rights situation is tense and is characterized by inter-clan competition and warfare leading to loss of life and displacement of populations. For example, in early July 2000, clashes between the Gare and Jida sub-clans led to the displacement of over 1,000 persons. Later that month an angry crowd lynched a young boy from the Bantu minority clan, who worked as a water pump attendant and was suspected of stealing the pump. On 22 July, a land dispute between the Reer Maadle and Maamiye sub-clans led to an outbreak of fighting in the vicinity of Bulo Burti. Five persons were reported dead and an unidentified number wounded. In Belet Weyne fighting erupted on 7 August between Hawadle and Jejele militias after a prominent member of the Hawadle community was shot dead. Three other people were killed and four wounded in the fighting.

25. Attacks against aid workers and installations continued unabated. On 11 April 2000, the self-styled Shariah courts' militia arrested Dr. Jeylani, a national WHO officer in Merka, because he refused to provide unnecessary medical supplies to prisoners held in the Shariah courts' prison in Merka. His assessment had been that they required drugs for the treatment of and protection against malaria only, and that other drugs were not required. The Shariah courts' leaders were angered by this decision and arrested the WHO officer. However, local leaders obtained his release after intercession. On 15 April, a CARE food convoy was attacked at a militia checkpoint on the Brave-Merka road allegedly manned by the Biymaal sub-clan. A group of militia took over the InterSOS hospital in Jowhar on 12 May and looted valuable medical equipment and drug supplies. There were neither casualties nor shootings during the incident. On 8 June, a European Community Humanitarian Operations (ECHO) aircraft was fired upon in the vicinity of Meled and struck on the wing by an unknown gunman as it was approaching Merka airport to land. On 14 June, in the aftermath of that attack, the United Nations received a letter from the Biyamaal Resistance Movement (BIREM) threatening more of the same treatment to any international aircraft using Merka airfield. Neither the Merka nor the Melled committees of elders have satisfactorily pursued justice in this case. On 15 June, it was reported that a

grenade had been tossed into the compound of the international NGO COSV in Merka. There were fortunately no injuries. At the time of the incident, COSV Staff were preparing for the Annual Day of the African Child celebrations when a crowd of religious extremists appeared outside the compound. In Merka, Biyamaal militia attacked the compound of the international NGO Water for Life (WFL) on 12 July. One WFL security guard was critically wounded. Two United Nations security officers were dispatched to Merka on 19 September in order to conduct a security assessment. Following initial discussions, they retired to the WHO guesthouse. About midnight, six to eight gunmen assaulted the guesthouse, and a 20-minute firefight ensued between them and the WHO security staff. The group was not able to force entry. The following day, the two United Nations security officers were evacuated. On 9 November, the former UNICEF compound in Dusa Mareb was attacked by disgruntled job seekers. No casualties were reported.

E. Mogadishu

26. The city remains divided into fiefdoms controlled by the TNG and a variety of faction leaders. Inter-faction clashes often lead to civilian casualties and loss of property. The following cases illustrate the lawlessness prevalent in the city. On 2 April 2000, militia clashed in the port of El Maan, located north of Mogadishu. Three persons were killed and a Toyota Landcruiser was looted from the port staff. In another incident on the same day, Agonieh militia rushed into a pharmacy in the Yaqshid district and murdered the owner. Also on 2 April, a fight amongst Mohamed Qanyare's militia in the Bakara Market area led to a shooting incident that claimed the lives of three persons and wounded another four. Fierce inter-clan fighting between the Eli and Reer Matan of the Abgaal sub-clans was reported in Mogadishu on 7 May; 20 people were reported killed and another 30 wounded in the fighting. Stray shots resulted in the death of 2 bystanders and the wounding of another 15. On 14 July, clashes involving the militias of Murusade, the Ayr and the Daud sub-clans at three different locations in the city left 10 persons dead and perhaps as many as 25 wounded. On 17 July, it was reported that, over a period of 48 hours, some 10 clan-owned public vehicles had been fired upon and looted by rival militias of the Abgaal, Habr Gedir and Murusade sub-clans. During the same period, it was reported that there had been a rash of assassinations in which the victims' bodies had allegedly been left in public places for public viewing. On 18 October, General Yussuf Talan was assassinated on the street near the Sahafi Hotel. Four to six gunmen carried out the attack; they were reportedly later observed entering Osman Ato's compound in the city. The significance of this incident is that Talan had reportedly just been appointed as chief of the TNG militia demobilization effort for Mogadishu, that he was killed in an area where both parliamentarians' and the President's homes were located, and that he was killed while negotiations were continuing between the TNG and the opposition elements in Mogadishu. On 13 November, a TNA member of Parliament, Hassan Ahmed Elmi, was assassinated in front of his home in the Medina district of Mogadishu. Muse Sudi, who retained tight control of the Medina district, denied that the technical and militia who perpetrated the incident were from his group. Another member of Parliament, Mohamed Dualle Haaf, was ambushed on 17 November. The ambush was reportedly conducted by unidentified Sa'ad and Ayr militia. Haaf escaped unharmed from the ambush, which left 7 killed and 10 wounded. On 15 February 2001, fighting broke out between Murusade and Abgaal militias. Two truck-mounted guns and approximately 30 militiamen were involved. The clash lasted for about 20 minutes and resulted in one militiaman and four bystanders being wounded.

27. Aid workers, their premises and other properties are routinely attacked in Mogadishu. The following are a few examples of such attacks. On 14 April 2000, Mohamed Qanyare's militia allegedly struck a UNDP leased vehicle. A non-staff member who was a passenger in the vehicle was slightly injured by shattered glass. On 3 May unidentified gunmen killed a national staff member of the international NGO Action internationale contre la faim (ACF) while on duty. Also, on 26 July, 5 to 10 technicals supported by up to 50 Sa'ad militia attacked the ACF compound in South Mogadishu. Osman Ato reportedly ordered this attack. Two staff members, one from the United Kingdom and one from France, were taken as hostages and kept for almost two months. They were released after the International Committee of the Red Cross (ICRC) intervened on their behalf. On 28 July, bandits ambushed a public transport vehicle carrying Dr. Salad Jumale Osoble of FAO on the Bale Dogle-Mogadishu road near Wanle Weyne. Dr. Salad and three others were wounded in an exchange of gunfire and Dr. Salad was rushed to hospital in Mogadishu suffering from a gunshot wound in the thigh, the bullet lodged against his hipbone. In another incident, a local doctor working at the Mount Sinai Clinic was kidnapped by militia in North Mogadishu and held for 12 hours before being successfully rescued. On 11 January, freelance gunmen from the Waesle clan opened fire at Forlino Hospital in North Mogadishu. Médecins Sans Frontières-Spain was about to establish a cholera treatment centre in the hospital. The freelance gunmen threatened that unless they were given jobs at the hospital, they would continue to disrupt the cholera treatment centre.

III. THE LATEST DEVELOPMENTS

28. On 19 December 2000, the United Nations Secretary-General submitted a detailed report to the Security Council on the situation in Somalia (S/2000/12/1). On 11 January 2001, the Council, in a presidential statement (S/PRST/2001/1), inter alia welcomed the TNG efforts to promote national reconciliation; urged all political groups in the country, particularly those which have remained outside the Arta peace process to engage in dialogue with the TNG; condemned attacks by armed groups on civilians; condemned the illegal supply of weapons; and reiterated to all States their obligation to uphold the arms embargo imposed in accordance with Council resolution 733 (1992) of 23 January 1992. In response to the Secretary-General's readiness to establish a trust fund for peace-building in Somalia, the Council requested him to submit a proposal for a peace-building mission for the country. The United Nations Political Office for Somalia is currently preparing a preliminary draft for such a mission in consultation with United Nations country team members.

29. The latest OHCHR project for Somalia addresses two needs: (a) to mainstream human rights in the programmes and projects of the United Nations Country Team members by the Senior Human Rights Adviser working directly under the auspices of the Resident/Humanitarian Coordinator; and (b) to provide technical advice to UNDP in its law and governance related programmes and projects in general and the Somali Civil Protection Programme in particular. In accordance with the project document, OHCHR provides a senior human rights adviser, while UNCU, the United Nations Coordination Unit and UNDP provide logistical and secretarial support to the adviser. The High Commissioner for Human Rights and the Resident/Humanitarian Coordinator signed this project in December 2000.